

SUPREME COURT OF LOUISIANA

No. 16-KH-1572

STATE EX REL. FARRELL M. ROCHELLE

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE FORTY-SECOND
JUDICIAL DISTRICT COURT, PARISH OF DESOTO**

PER CURIAM:

Denied. The evidence relator seeks to introduce concerning the jury's deliberation is not admissible. La.C.E. art. 606(B). We attach hereto and make part hereof the District Court's written reasons denying relator's application.

Relator has now fully litigated at least two applications for post-conviction relief in state court. Similar to federal habeas relief, see 28 U.S.C. § 2244, Louisiana post-conviction procedure envisions the filing of a second or successive application only under the narrow circumstances provided in La.C.Cr.P. art. 930.4 and within the limitations period as set out in La.C.Cr.P. art. 930.8. Notably, the Legislature in 2013 La. Acts 251 amended that article to make the procedural bars against successive filings mandatory. Relator's claims have now been fully litigated in accord with La.C.Cr.P. art. 930.6, and this denial is final. Hereafter, unless he can show that one of the narrow exceptions authorizing the filing of a successive application applies, relator has exhausted his right to state collateral review. The District Court is ordered to record a minute entry consistent with this per curiam.

STATE OF LOUISIANA RECEIVED AND FILED NUMBER 10-CR-20316

VERSUS 2016 MAY 13 4:23 PM 19ND JUDICIAL DISTRICT COURT

FARRELL ROCHELLE DESOTO PARISH, LOUISIANA

RULING ON POST-CONVICITON RELIEF
APPLICATION

The applicant, Farrell Rochelle, claims his right to a fair and impartial jury was violated wherein he alleges two jurors could have been subjected to influences other than evidence adduced at trial. The basis of the applicant's claim is found in the contents of a letter submitted to Steven R. Thomas, Chief of the Public Defenders office from Joseph R. Shipp, the foreman of the jury on applicant's trial. The District Attorney's Office has responded maintaining the applicant's pleadings are insufficient to establish this misconduct, and that the foreman's letter/statement/"affidavit" is inadmissible under La. C.E. art 606 B.

To warrant a defendant's/applicant's right to an evidentiary hearing wherein jurors can be called to testify, the applicant must present well-pleaded allegations of prejudicial juror misconduct violating his constitutional rights. State v. Emmanuel-Dunn, 03-0550 (La.App. 1 Cir. 11/7/03), 868 So.2d 75, State v. Richardson, 91-2339 (La.App. 1 Cir. 5/20/94), 637 So.2d 709.

The jury shield law, article 606 (B) of the Code of Evidence, provides a juror may not testify to any matter or statement occurring during the course of deliberations unless there were outside influences brought to bear upon a juror. Examples of such outside influences have included a bailiff's communication as to a juror's refusal to deliberate, State v. Videau, 04-923 (La.App. 5 Cir. 3/1/05) 900 So.2d 855 writ denied 05-0841 (La. 1/9/06) 918

10/28/2016 "See News Release 062 for any Concurrences and/or Dissents."

So.2d 1037; alcohol impaired jurors, State v. Smith, 06-0820 (La. App. 1 Cir. 12/28/06) 952 So.2d 1; alternate jurors participating in deliberations, State v. Bibbins, 13-875 (La. App. 5 Cir. 4/9/14) 140 So.3d 153.


In the present case, a careful review of the foreman's presumptively inadmissible letter/statement is necessary to determine whether there were outside influences brought to bear upon a juror in the applicant's trial. That review reveals there was no outside influence, there were only deliberations, among the jurors. It appears the foreman's true concern is that the more culpable co-defendant received a lesser sentence than Mr. Rochelle, whom he classifies as one, "...who was only a participant..."

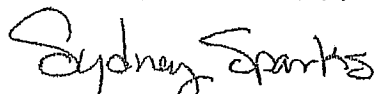
This foreman's concern and his opinions as to "justice" are certainly understandable and commendable. However, they do not rise to the level of prejudicial juror misconduct which forms the basis of a constitutional rights violation. The State's argument that C.E. art 606 (B) would deem the foreman's statement inadmissible is correct.

Accordingly, this Post-Conviction Relief Application is denied.

This done this 12th day of May, 2016.


DISTRICT JUDGE

PROCESSED 5/13 2016

Deputy Clerk

A TRUE COPY - ATTEST

Deputy Clerk of the District Court
DeSoto Parish, Louisiana